

SENATE BILL NO. 872

May 14, 2024, Introduced by Senators IRWIN, CAVANAGH, SANTANA, CHANG, MCMORROW, SHINK and ANTHONY and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1994 PA 203, entitled
"Foster care and adoption services act,"
(MCL 722.951 to 722.960) by adding section 8f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 8f. (1) The department shall do both of the following:**

2 **(a) Apply for and secure all income and funds available to a**
3 **child in foster care, including any unqualified benefits for which**
4 **a child in foster care is eligible.**

5 **(b) Screen a child in foster care for unqualified benefits**

1 within 60 days after the child enters foster care, and annually if
2 the child remains in foster care.

3 (2) Beginning not later than October 1, 2024, and except as
4 provided in this subsection, this state shall not use the
5 unqualified benefits of a child in foster care, or any other assets
6 or income that the child has earned, owned, or received, as
7 reimbursement for the cost of care for the child. The department
8 may do 1 or more of the following if the department determines that
9 it is in the child's best interests:

10 (a) Use the child's unqualified benefits for special needs
11 services for the child that are not otherwise provided by the
12 department.

13 (b) Conserve the unqualified benefits for reasonably
14 foreseeable future special needs services for the child.

15 (3) If the department applies for federal benefits for a child
16 in foster care, the department shall, in cooperation with the
17 child's guardian ad litem, if one has been appointed, identify a
18 representative payee or fiduciary in accordance with the
19 requirements of 20 CFR 404.2021 and 416.621, as applicable.

20 (4) Not later than January 1, 2026, and consistent with
21 federal law, if the department serves as the representative payee
22 or in any other fiduciary capacity for a child in foster care that
23 receives federal benefits, the department shall do all of the
24 following until the department no longer serves as the
25 representative payee or fiduciary:

26 (a) Conserve the federal benefits in the child's best
27 interests or use the federal benefits as authorized under
28 subsection (2).

29 (b) Subject to subsection (2), appropriately monitor any

1 federal asset or resource limits for the federal benefits and
2 ensure that the child's best interests are served by using or
3 conserving the federal benefits in a way that avoids violating any
4 federal asset or resource limits that would affect the child's
5 eligibility to receive the federal benefits, including any of the
6 following:

7 (i) Applying to the United States Social Security

8 Administration to establish a plan for achieving self-support
9 (PASS) account for the child under the social security act, 42 USC
10 301 to 1397mm, and determining whether it is in the best interests
11 of the child to conserve all or part of the federal benefits in the
12 PASS account.

13 (ii) Establishing a plan for the child under section 529A of
14 the internal revenue code of 1986, 26 USC 529A, and conserving the
15 child's federal benefits in a manner that appropriately avoids any
16 federal asset or resource limits.

17 (iii) Establishing an individual development account for the
18 child and conserving the child's federal benefits in that account
19 in a manner that appropriately avoids any federal asset or resource
20 limits.

21 (iv) Establishing a special needs trust for the child and
22 conserving the child's federal benefits in the trust in a manner
23 that is consistent with federal requirements for the trust and that
24 appropriately avoids any federal asset or resource limits. As used
25 in this subparagraph, "special needs trust" means a trust described
26 in section 1917(d) (4) (A), (B), or (C) of title XIX of the social
27 security act, 42 USC 1396p.

28 (v) If federal law requires certain back payments of
29 unqualified benefits to be placed in a dedicated account, complying

1 with the requirements for dedicated accounts under 20 CFR
2 416.640(e).

3 (vi) Applying any other exclusions from federal asset or
4 resource limits available under federal law and using or conserving
5 the child's federal benefits in a manner that appropriately avoids
6 any federal asset or resource limits.

7 (c) Provide an annual accounting to the child and the child's
8 guardian ad litem, if one has been appointed, of how the child's
9 unqualified benefits have been used or conserved in accordance with
10 this section.

11 (5) Not later than January 1, 2026, if a child in foster care
12 is 14 years of age or older and is able to receive financial
13 literacy training, the department shall provide the child with
14 financial literacy training.

15 (6) The department shall immediately notify a child in foster
16 care, through the child's guardian ad litem, if one has been
17 appointed, of any of the following:

18 (a) An application for federal benefits made on the child's
19 behalf or any application to become representative payee for
20 federal benefits on the child's behalf.

21 (b) A decision or communication from the federal government
22 regarding an application for federal benefits described under
23 subdivision (a).

24 (c) An appeal or other action requested by the department with
25 regard to an application for federal benefits described under
26 subdivision (a).

27 (7) Not later than January 1, 2026, if the department serves
28 as the representative payee or otherwise receives unqualified
29 benefits on behalf of a child in foster care, the department must

1 provide notice to the child, through the child's guardian ad litem,
2 if one has been appointed, of all of the following before each
3 juvenile court hearing regarding the child:

4 (a) The amount of unqualified benefits received on the child's
5 behalf since any previous notification to the child's guardian ad
6 litem, if one has been appointed, and the date of each receipt.

7 (b) Information regarding all of the child's assets and
8 resources, including the child's unqualified benefits, insurance,
9 cash assets, trust accounts, earnings, and other resources.

10 (8) The department shall facilitate the transfer of any assets
11 or income that the child has earned, owned, or received to the
12 child when the child is discharged from foster care or reaches the
13 age of 18, whichever is sooner. The department shall assist the
14 child in nominating a representative payee, if applicable. If the
15 child dies while in foster care, the department shall facilitate
16 the transfer of any of the child's assets or income to the child's
17 heirs. If the child is discharged from foster care into the care of
18 a parent, guardian, or conservator, the department shall facilitate
19 the transfer of any assets or income to the child's parent,
20 guardian, or conservator to be managed for the benefit of the
21 child.

22 (9) As appropriate, the department shall file timely appeals
23 to a denial, overpayment, or cessation of unqualified benefits on
24 behalf of a child in foster care.

25 (10) This section does not affect any additional notice
26 required by a state court.

27 (11) As used in this section:

28 (a) "Federal benefits" includes, but is not limited to, any of
29 the following:

- 1 (i) Social Security benefits.
- 2 (ii) Supplemental Security Income.
- 3 (iii) United States Department of Veterans Affairs benefits.
- 4 (b) "Unqualified benefits" means any of the following:
- 5 (i) Federal benefits.
- 6 (ii) Payments or proceeds that a child receives as a
- 7 beneficiary of an annuity, a life insurance policy, or a pension.